

**CHAPTER 31**

**ORGANIZATION OF THE OFFICE OF ADMINISTRATIVE LAW**

**Authority**

N.J.S.A. 52:14F-5(e), (f) and (g).

**Source and Effective Date**

R.2007 d.393, effective November 20, 2007.  
See: 39 N.J.R. 2393(a), 39 N.J.R. 5201(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 31, Organization of the Office of Administrative Law, expires on May 19, 2015. See: 46 N.J.R. 2302(a).

**Chapter Historical Note**

Chapter 31, Organization of the Office of Administrative Law, was adopted as Subchapter 1, Operation and Procedures of the Office of Administrative Law, by R.1982 d.291, effective August 12, 1982. See: 14 N.J.R. 976(a).

Pursuant to Executive Order No. 66(1978), Subchapter 1, Operation and Procedures of the Office of Administrative Law, was readopted as R.1987 d.286, effective June 17, 1987. See: 19 N.J.R. 1291(a).

N.J.A.C. 1:31-1.2, Procedure to petition for a rule, was recodified as N.J.A.C. 1:31-2.1 under new Subchapter 2, Procedures of the Office of Administrative Law, by R.1987 d.287, effective July 20, 1987. See: 19 N.J.R. 677(a), 19 N.J.R. 1291(b).

Subchapter 3, Discipline of Administrative Law Judges, was adopted as R.1992 d.17, effective January 6, 1992. See: 23 N.J.R. 2901(a), 23 N.J.R. 3179(a), 24 N.J.R. 87(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Organization of the Office of Administrative Law, was readopted as R.1992 d.213, effective April 21, 1992. See: 24 N.J.R. 321(a), 24 N.J.R. 1873(b).

Pursuant to Executive Order No. 66(1978), Chapter 31, Organization of the Office of Administrative Law, was readopted as R.1997 d.158, effective March 10, 1997. See: 29 N.J.R. 282(a), 29 N.J.R. 1295(a).

Chapter 31, Organization of the Office of Administrative Law, was readopted as R.2002 d.198, effective May 30, 2002. See: 34 N.J.R. 983(a), 34 N.J.R. 2309(a).

Chapter 31, Organization of the Office of Administrative Law, was readopted as R.2007 d.393, effective November 20, 2007. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 31, Organization of the Office of Administrative Law, was scheduled to expire on November 20, 2014. See: 43 N.J.R. 1203(a).

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. OPERATION AND PROCEDURES OF THE OFFICE OF ADMINISTRATIVE LAW**

- 1:31-1.1 Functions of the Office
- 1:31-1.2 (Reserved)
- 1:31-1.3 Public information requests and submissions

**SUBCHAPTER 2. PROCEDURES OF THE OFFICE OF ADMINISTRATIVE LAW**

- 1:31-2.1 Procedure to petition for a rule
- 1:31-2.2 Extension of comment period on proposed rulemaking activity
- 1:31-2.3 Public hearing on proposed rulemaking activity
- 1:31-2.4 Additional notice of rulemaking activity

**SUBCHAPTER 3. DISCIPLINE OF ADMINISTRATIVE LAW JUDGES**

- 1:31-3.1 General causes for discipline
- 1:31-3.2 Complaints and forms of discipline
- 1:31-3.3 Minor discipline
- 1:31-3.4 Penalty beyond reprimand
- 1:31-3.5 Establishment of OAL Advisory Committee on Judicial Conduct
- 1:31-3.6 Preliminary investigation
- 1:31-3.7 Recommendations of the Committee
- 1:31-3.8 Issuance of order
- 1:31-3.9 Formal hearing
- 1:31-3.10 Confidentiality
- 1:31-3.11 Judicial independence and discipline process

**SUBCHAPTER 1. OPERATION AND PROCEDURES OF THE OFFICE OF ADMINISTRATIVE LAW**

**1:31-1.1 Functions of the Office**

(a) The Office of Administrative Law (OAL) created by statute in 1978, is independent of any executive department, board, division, commission, agency, council, authority, office or officer of the State of New Jersey. The OAL performs four major functions:

1. Conducts contested case hearings, as provided in N.J.S.A. 52:14B-10 and N.J.S.A. 52:14F-8, and with the consent of the Director conducts other administrative hearings if requested by an agency head. In general, the Office of Administrative Law acquires contested case jurisdiction over a matter after an agency head determines that a contested case exists and subsequently files the case with the OAL, as provided in N.J.A.C. 1:1-1;

2. Promulgates rules for the conduct of contested case hearings. Rules are promulgated to assist judges, attorneys, and contested case parties by clarifying legal requirements;

3. Supervises, coordinates and records rulemaking proceedings within the Executive Branch. Under the authority of N.J.S.A. 52:14F-5(f), the OAL oversees agency compliance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.) and through N.J.A.C. 1:30-1 has established standards to guide agency rulemaking.

4. Publishes the New Jersey Register, and the New Jersey Administrative Code and makes copies of initial decisions available through the Rutgers Camden Law School website [www.lawlibrary.rutgers.edu](http://www.lawlibrary.rutgers.edu). The publication function of the OAL is multifaceted:

i. Publication of proposed rules in the New Jersey Register gives an interested person an opportunity to comment and object;

ii. Publication of adopted rules in both the New Jersey Register and New Jersey Administrative Code provides a ready, updated reference to State agency rules; and

iii. Availability of decisions in contested cases provides the public with access to administrative adjudications.

Amended by R.1992 d.213, effective May 18, 1992.

See: 24 N.J.R. 321(a), 24 N.J.R. 1873(b).

Revised text.

Amended by R.2002 d.198, effective July 1, 2002.

See: 34 N.J.R. 983(a), 34 N.J.R. 2309(a).

Rewrote (a)4.

### 1:31-1.2 (Reserved)

Recodified by R.1987 d.287, effective July 20, 1987.

See: 19 N.J.R. 677(a), 19 N.J.R. 1291(b).

Section "Procedure to petition for a rule" recodified to 1:31-2.1.

### 1:31-1.3 Public information requests and submissions

(a) A member of the public may obtain information or make a submission or a request, or file a petition concerning any program of the Office of Administrative Law by contacting the Public Information Officer, Office of Administrative Law, PO Box 049, Trenton, New Jersey 08625-0049.

(b) Any person may obtain copies of State agency rules, or may obtain information about the New Jersey Register or Administrative Code by contacting the Division of Administrative Rules, PO Box 049, Trenton, New Jersey 08625-0049. Register and Code subscription information can be obtained from the publisher, LexisNexis, at 1-800-833-9844 or at [www.lexisnexis.com](http://www.lexisnexis.com).

(c) The cost for copies of documents is:

1. First page to 10th page: \$0.75 per page;
2. Eleventh page to 20th page: \$0.50 per page;
3. All pages over 20: \$0.25 per page.

(d) Payment for copies under (c) above may be made by check payable to Treasurer, State of New Jersey.

Amended by R.1992 d.213, effective May 18, 1992.

See: 24 N.J.R. 321(a), 24 N.J.R. 1873(b).

Revised (c).

Amended by R.2002 d.198, effective July 1, 2002.

See: 34 N.J.R. 983(a), 34 N.J.R. 2309(a).

Rewrote the section.

Amended by R.2007 d.393, effective December 17, 2007.

See: 39 N.J.R. 2393(a), 39 N.J.R. 5201(a).

In (a), substituted "Public Information Officer" for "Office of the Director" and deleted "Quakerbridge Plaza, Building No. 9," preceding "PO Box"; rewrote (b); and in (d), substituted "Treasurer, State of New Jersey" for "Administrative Publications, Office of Administrative Law (OAL)".

## SUBCHAPTER 2. PROCEDURES OF THE OFFICE OF ADMINISTRATIVE LAW

### 1:31-2.1 Procedure to petition for a rule

(a) An interested person may petition for the promulgation, amendment or repeal of any rule of the Office of Administrative Law. A petition shall be in writing, shall be legible and intelligible and shall be signed by the petitioner. Each petition shall contain the following information:

1. The full name and address of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request;
4. The statutory authority under which the Office of Administrative Law may take the requested action.

(b) The petitioner may provide the text of the proposed new rule, amended rule, or repealed rule.

(c) The Office of Administrative Law shall immediately date stamp and log each document submitted as a petition. Upon filing, the Office of Administrative Law shall, within 15 days of receipt of the petition, submit a notice of receipt of the notice of petition for a rule for publication in the New Jersey Register pursuant to the requirements of N.J.A.C. 1:30-4.1(c).

(d) No later than 60 days after receiving a petition, the Office of Administrative Law shall mail to the petitioner and file for publication in the New Jersey Register, a notice of action on the petition which shall contain the information prescribed by N.J.A.C. 1:30-4.2.

Recodified from 1:31-1.2 by R.1987 d.287, effective July 20, 1987.

See: 19 N.J.R. 677(a), 19 N.J.R. 1291(b).

Amended by R.2002 d.198, effective July 1, 2002.

See: 34 N.J.R. 983(a), 34 N.J.R. 2309(a).

Inserted a new (b); recodified existing (b) and (c) as (c) and (d) and rewrote them.

### 1:31-2.2 Extension of comment period on proposed rulemaking activity

(a) The designated public comment period for any rule proposed by the Office of Administrative Law shall be extended for a period of 30 additional days when sufficient public interest is demonstrated in an extension of the time for comment submission or whenever deemed appropriate by the Director.

1. Sufficient public interest for granting an extension of the public comment period exists whenever 10 or more individuals or entities have requested an extension of the comment period to the Office of Administrative Law. This communication must be submitted in writing to the individual designated to receive comments in the notice of rule proposal within 30 days of publication of the proposal.

New Rule, R.2002 d.100, effective April 1, 2002.

See: 33 N.J.R. 4049(a), 34 N.J.R. 1421(a).

### 1:31-2.3 Public hearing on proposed rulemaking activity

(a) The Office of Administrative Law shall conduct a public hearing on a proposed rule if, within 30 days following publication of the proposed rule in the New Jersey Register:

1. A public hearing is requested by a committee of the Legislature;

2. A public hearing is requested by a governmental agency or subdivision;
3. Sufficient public interest in a public hearing is demonstrated. Sufficient public interest in a public hearing shall be demonstrated whenever 10 or more individuals or entities request, in writing, such hearing. Such notice shall include the basis for the request; or
4. Whenever deemed appropriate by the Director.

New Rule, R.2002 d.100, effective April 1, 2002.  
See: 33 N.J.R. 4049(a), 34 N.J.R. 1421(a).

**1:31-2.4 Additional notice of rulemaking activity**

(a) The Office of Administrative Law shall provide at least 30 days notice of all proposed rulemaking. Notice shall be provided in the following manner:

1. Publication in the New Jersey Register;
2. Distribution of a notice or statement of the substance of the proposed rulemaking activity to the news media maintaining a press office in the New Jersey State House Complex;
3. Posting of the notice or statement of the substance of the proposed rulemaking activity on the official website of the New Jersey Office of Administrative Law at [www.state.nj.us/oal](http://www.state.nj.us/oal); and
4. Mailing of the notice or a statement of the substance of the proposed rulemaking activity to all persons who have made timely requests to the Office of Administrative Law for advance notice of its rulemaking proceedings and to persons or organizations likely to be affected by or interested in the intended action, including, but not

limited to, the New Jersey State Bar Association and to any appropriate committees thereof; the New Jersey Office of Attorney General; New Jersey State administrative agencies; public interest groups, New Jersey Legal Services; and labor and trade unions.

(b) Notice may also be provided through publication in the New Jersey Law Journal, New Jersey Lawyer, or other appropriate publication.

New Rule, R.2002 d.100, effective April 1, 2002.  
See: 33 N.J.R. 4049(a), 34 N.J.R. 1421(a).

---

**SUBCHAPTER 3. DISCIPLINE OF ADMINISTRATIVE LAW JUDGES**

**1:31-3.1 General causes for discipline**

(a) The Director of the Office of Administrative Law may discipline an administrative law judge for:

1. Willful misconduct including misconduct which, although not directly pertaining to judicial duties, brings the office into disrepute or is prejudicial to the administration of justice;
2. Willful, persistent, or negligent failure of a judge to perform judicial duties, including incompetent performance of judicial duties;
3. Intemperance, including injudicious personal conduct, recurring loss of temper or control, abuse of alcohol, or the abuse of controlled dangerous substances;

4. Any conduct which constitutes a violation of the OAL Office Policies for Administrative Law Judges or the Code of Judicial Conduct for Administrative Law Judges; or

5. Other sufficient cause.

Amended by R.1992 d.430, effective November 2, 1992.

See: 24 N.J.R. 2755(a), 24 N.J.R. 4028(a).

Revised (a)4.

### 1:31-3.2 Complaints and forms of discipline

(a) Upon becoming aware of any circumstance, statement, criticism, or complaint, which is not obviously unfounded or frivolous, which does not relate solely to a matter subject to an appeal, and which indicates that an administrative law judge has committed any conduct described in N.J.A.C. 1:31-3.1, the Director may initiate proceedings to impose disciplinary sanctions. Such sanctions shall include, but not be limited to:

1. The issuance of a private reprimand;
2. The issuance of a public reprimand;
3. The imposition of a fine;
4. A suspension of up to six months; or
5. A recommendation to the Governor for removal, pursuant to Art. V, Sec. IV, Par. 5 of the New Jersey Constitution.

### 1:31-3.3 Minor discipline

When the Director seeks to impose a written or oral reprimand, public or private, an administrative law judge shall receive formal notification of the charges and shall be afforded an opportunity to review the charges and to respond to the Director either orally or in writing. No formal hearing will be provided. The notice to the judge shall specify in ordinary and concise language the charges against the judge and the alleged facts upon which they are based. The decision of the Director shall be final.

### 1:31-3.4 Penalty beyond reprimand

When the Director believes that a penalty greater than an oral or written reprimand may be appropriate, the Director may forward the matter to the Office of Administrative Law Advisory Committee on Judicial Conduct or issue a formal complaint and order in accordance with N.J.A.C. 1:31-3.8.

### 1:31-3.5 Establishment of OAL Advisory Committee on Judicial Conduct

(a) There is established an OAL Advisory Committee on Judicial Conduct to investigate complaints referred by the Director concerning judicial conduct and to give advisory opinions, recommendations, and reports to the Director of the Office of Administrative Law. The Committee shall consist of three members who shall be appointed by the Director for terms expiring respectively one, two, and three

years after appointment, whose respective successors shall be appointed upon the expiration of such terms and annually thereafter to serve three-year terms. A Committee member may be reappointed at the discretion of the Director. The Director may appoint any administrative law judge to serve as a member of the Committee. If willing to serve, retired administrative law judges or retired judges of the Superior Court of New Jersey may be eligible for appointment to the Committee at the discretion of the Director. The Director shall appoint one member to serve as Chairperson. All appointments to fill vacancies shall be for the unexpired term.

(b) No action of the Committee shall be valid unless concurred to by a majority of its membership.

(c) An employee of OAL designated by the Director will serve as secretary to the Committee.

(d) The Committee shall be provided with clerical and administrative assistance as may be needed to perform its function. If a criminal investigation is required, the matter shall be referred to the Attorney General.

(e) All papers filed with and proceedings before the Committee shall be confidential.

### 1:31-3.6 Preliminary investigation

(a) The Committee shall conduct a preliminary investigation at the request of the Director. To perform a preliminary investigation, the Committee may utilize the following methods:

1. It may request that the Director provide sufficient resources to conduct an investigation of the matter.
2. Unless the circumstances render it unnecessary or inappropriate, the Committee may require the complainant to file with the Committee a statement signed under oath against the judge.
3. The Committee shall notify the judge of the nature of the charge, the name of the person making it where appropriate, and that the judge has the opportunity to present within such reasonable time as the Committee shall fix, such matters as the judge may choose with respect to it. This includes the right to appear before the Committee, with or without counsel, and to make a statement under oath as the judge deems appropriate. If deemed appropriate, the Committee may request that the complainant make a supplemental statement under oath. These statements, if oral, shall be sound recorded.
4. The notice to the judge shall specify in ordinary and concise language the charges against the judge and the alleged facts upon which they are based.

### 1:31-3.7 Recommendations of the Committee

(a) Upon completion of the preliminary investigation, the Committee may take any of the following actions which may be accepted, rejected, or modified by the Director:

1. The Committee may recommend that the Director dismiss the charges and notify the parties of the action taken. If the matter has been made public, the Director may, at the request of the judge involved, issue a short statement of clarification and correction.

2. If the investigation reveals some departures by the judge from common standards of judicial propriety, such as discourtesy, rudeness, disparagement of witnesses or attorneys, and the like, or other conduct or demeanor which would reflect unfavorably upon the administration of justice if persisted in or were to become habitual or more substantial in character, the Committee may request the judge to appear at a time and place designated for an informal discussion of the matter. After making the judge aware of the objectionable conduct, and becoming satisfied that it was temporary in nature and not likely to become habitual, the Committee may recommend to the Director that the complaint be dismissed and the parties advised of the action taken, and the reasons therefor. Any such conference shall be recorded by a sound recording device and a transcribed record of the tape filed with the papers in the proceeding.

3. If the Committee believes that the judge may be suffering from a mental or physical disability which is disabling the judge and may continue to disable the judge indefinitely or permanently from the performance of his or her duties, it shall recommend to the Director an appropriate response that balances any medical need of the judge and protects the public interest.

4. Whenever the Committee concludes from the preliminary investigation that the circumstances merit an oral or written reprimand, the Committee shall promptly file a copy of the recommendation, and the record of the Committee certified as such by its secretary, with the Director. If the Director agrees with the recommendation, the Director shall proceed in accordance with N.J.A.C. 1:31-3.3. If the Director disagrees with the recommendation, the Director may issue a formal complaint and order in accordance with N.J.A.C. 1:31-3.8.

5. Whenever the Committee concludes from the preliminary investigation that the circumstances, if established at an evidentiary hearing, merit disciplinary action greater than an oral or written reprimand, and that formal proceedings to that end should be instituted, the Committee shall promptly file a copy of the recommendation and the record of the Committee certified as such by its secretary with the Director. The Committee shall issue also without delay and serve upon the judge a notice advising him or her that it has filed such a recommendation with the Director.

#### **1:31-3.8 Issuance of order**

Upon receipt and review of any opinions, recommendations, and reports from the Committee under N.J.A.C. 1:31-3.7(e), the Director may proceed in accordance with N.J.A.C. 1:31-3.3 or may issue a formal complaint and order the judge to show cause why a specific sanction should not be imposed or a recommendation for removal not be sent to the Governor. The order to show cause shall require the judge to answer the complaint within 30 days of service of the complaint and order upon the judge.

#### **1:31-3.9 Formal hearing**

Unless the judge's answer to the complaint renders further formal proceedings unnecessary, a due process hearing shall be conducted by a designee of the Director. The evidentiary hearing in this matter shall begin within 30 days from the filing of the answer with the OAL. At the hearing, the OAL will be represented by the secretary to the Committee or the Director may request representation from the Office of the Attorney General. The decision of the designated hearer shall be a recommendation to the Director. The Director shall make the final decision in the matter within 10 days unless notice is provided to the judge that the time for review needs to be extended.

#### **1:31-3.10 Confidentiality**

The record before the OAL Advisory Committee shall be confidential and shall not be available to any person except in the proper discharge of official duties, unless the judge requests that the charge, proceedings, and action shall be made public. If a public reprimand is imposed by the Director, the written reprimand shall be made public. Upon the issuance of a complaint and order to show cause, the complaint and order shall be made public. The entire record shall, unless the Director otherwise orders, be made public upon the entry of a final order imposing a fine, suspension, or removal.

#### **1:31-3.11 Judicial independence and discipline process**

The methods used by the judge, but not the result arrived at by the judge in any case, may be the cause for discipline of the judge. In order to foster and encourage judicial independence, claims of error shall be left to appellate review and not be subject to discipline.